

United States Senate  
WASHINGTON, DC 20510

April 5, 2017

The Honorable James Mattis  
Secretary  
United States Department of Defense  
1000 Defense Pentagon  
Washington, D.C. 20310-100

Dear Secretary Mattis:

We write to express concern regarding the Department of Defense's (DoD) recently announced policy for ensuring regulatory compliance by educational institutions that receive DoD Tuition Assistance (TA) funds to educate service members, and to seek additional information about this policy. At a recent military education conference, DoD officials announced plans to conduct annual audits of schools that receive DoD TA funds through a contract with PricewaterhouseCoopers (PwC), a private accounting firm.

PwC would audit 250 of the more than 2,000 schools that enroll active duty service members each year. In order to identify the 250 schools selected for audit each year, PwC would randomly select the first 200, and then the remaining 50 based on how these schools compare to others on a variety of factors such as number of courses taken using TA funds, completion rates for TA recipients, graduation rates, and student complaints. After the compliance audit, PwC would select 25 schools from the 250 audited schools for additional review, and then, if deemed necessary, select up to five of those schools for an on-campus review. If a school is determined to be noncompliant with DoD rules or policies after this review, then the school would have up to six months to correct the issue(s) and come into compliance.

While we appreciate the institution of any compliance structure given the lack of a current one, and the inclusion of student outcomes and complaints in the methodology, substantial questions remain regarding how DoD intends to protect service members from predatory actors in higher education. Specifically, we question the objective of this plan in light of remarks by the Deputy Chief of DoD Voluntary Education, in which he described the new process as being "emphatically and unequivocally about remediation," rather than enforcement. If the only consequence of breaking the rules is help from the DoD to get "back on course," then there is little deterrent or effective consequence for bad actors that regularly and intentionally violate DoD policy. This policy could also artificially limit the number of educational institutions annually identified for audit based on data regarding service member outcomes or complaints.

Additionally, we have concerns about the effectiveness of using a contractor to meet what we consider to be an important governmental function, namely the oversight and enforcement of an important government benefit. A 2014 report from the Government Accountability Office (GAO) concluded that DoD's previous use of a contractor in TA oversight resulted in evaluations that "did not provide the agency the information it needed to assess schools." According to the report, after concluding that the evaluations were not providing the necessary information to adequately hold schools accountable, "DoD decided not to renew its school evaluation contract." Nonetheless, DoD again plans to delegate oversight of federal TA funds and enforcement of DoD policies to a third-party contractor. This plan appears to outsource TA program oversight to PwC, a private company, which has previously been hired to provide paid audit services to numerous colleges that have been investigated or sued by federal or state law enforcement agencies for violations of laws meant to protect students, including institutions that receive DoD TA funds. An arrangement that allows this company to participate in oversight over the same colleges that pay the firm to conduct financial auditing services raises significant conflicts of interest questions.

Given the troubling history of abuses by predatory schools that take advantage of service members to obtain their TA and GI Bill funds, we believe it is critical that DoD remain committed to fully enforcing rules meant to protect service members from wasting their hard-earned TA funds at schools that will either bury them in unnecessary student debt or inadequately prepare them for the workforce. Strong enforcement may, at times, necessitate suspension or termination from the TA program for schools that are egregious violators of DoD's policies or schools that consistently remain in noncompliance.

Given these concerns and questions, we ask that you respond in writing to the following questions regarding this new annual auditing process:


- 1) Please provide the detailed methodology that PwC intends to use to select schools for audit, including how PwC intends to use student outcomes and complaints in selecting schools for review each year, how PwC will remediate schools found to be noncompliant, and how PwC intends to factor these data into the selection of schools for additional scrutiny or on-site review.
- 2) How does DoD intend to ensure that schools that are noncompliant for multiple years, schools that fail to come into compliance after remediation, and schools that are found to be out of compliance outside of the annual audit selection process are adequately held accountable?
- 3) Under what circumstances will DoD terminate or suspend access to DoD TA funds by schools found to be noncompliant through this process?
- 4) Under what circumstances will DoD notify potential students of a school's noncompliance on the DoD TA funds online comparison tool?
- 5) How will DoD's accountability plan consider allegations, investigations, and lawsuits regarding alleged misconduct or evidence of misconduct or noncompliance

uncovered by federal or state law enforcement agencies, including state attorneys general?

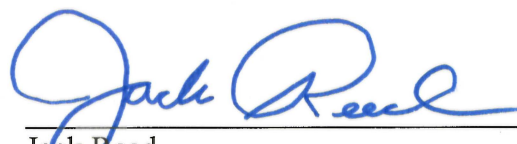
- 6) Did DoD conduct a cost/benefit analysis on the use of a contractor to perform this function rather than government employees? If so, please provide that analysis.
- 7) Was the contract awarded to PwC through the use of competitive contracting procedures?
- 8) How will DoD ensure that its contract with PwC does not result in the same oversight issues and challenges described in the 2014 GAO report?
- 9) How will DoD ensure that its contract with PwC adequately employs a “systemic risk-based approach” to oversight, which GAO called for in a 2011 report on DoD oversight of TA funds?
- 10) How much will the new PwC compliance and accountability system cost the federal government annually? How does this cost compare to the costs of the TA accountability system between 2014 and 2017?
- 11) How does the contract between DoD and PwC address potential conflicts of interest?
- 12) Please describe whether and by what process DoD consulted with advocates and organizations representing student veterans and service members in the creation of this policy.
- 13) Please provide the timeline for implementing this policy, the contract between PwC and the DoD, and any other relevant internal documentation regarding this accountability plan.

We appreciate your prompt attention to this matter and your answers to these questions. We look forward to working with you to ensure all service members are able to use DoD TA funds at schools that are delivering a quality education to service members.

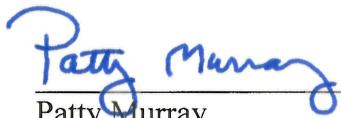
Sincerely,



Elizabeth Warren  
United States Senator



Jack Reed  
United States Senator



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Patty Murray  
United States Senator



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Richard J. Durbin  
United States Senator



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Richard Blumenthal  
United States Senator